Remarks/Arguments

Claims 1-4 were pending in this application. Claims 1, 3 and 4 have been amended herein. Claims 5 and 6 have been added. Claims 1-6 will be pending upon entry of this response. A petition and fee for a three (3) month extension of time is included herewith.

The Examiner has rejected claim 1 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner has objected to the term "pseudo-credit transaction" as lacking a definition. While not necessarily agreeing with the Examiner, claim 1, as well as other claims where the term occurs, has been amended to eliminate the phrase "pseudo-credit transaction" and replace it with the description from the specification, namely, a transaction that can be generated "without the transaction being initiated" by a merchant. Support for this recitation can be found in the specification in the second sentence of the summary, as well as near the end of the third paragraph of the detailed description. Applicant's claims, as amended, comply with 35 U.S.C. §112, second paragraph.

The Examiner has rejected claim 1 under 35 U.S.C. § 103(a) as being obvious in view of Johnson, "Accounts Receivable Financing," *Internal Auditing*, Fall 1990, Vol. 6, Issue 2; p. 61, in combination with Lee, "Factoring Can Smooth out Bottom of Cash Flow Cycle, *Kansas City Business Journal*, Vol. 16, Issue 28, March 27, 1998, p. 38. Applicant respectfully traverses this rejection. The Examiner bears the burden of factually supporting a conclusion of obviousness. M.P.E.P. § 2142. In order to establish the obviousness of a claim, the Examiner must show that teaching corresponding to *all* of the claim recitations are present in or suggested by the prior art. M.P.E.P. § 2143.03. Claim 1, as amended, is directed to determining, communicating, generating, and settling a payment initiated by a buyer "without the transaction being initiated by the merchant." Both the Johnson and Lee articles are related to a practice called "factoring" in which a merchant-side discount is applied to accounts receivable in return for faster payments. Factoring bears no relationship to how or where transactions are generated, and is not necessarily tied to credit or debit payments. Transactions that involve factoring are normally initiated by the merchant, teaching directly away from Applicant's claims. Claim 1 cannot be obvious in view of Johnson in combination with Lee.

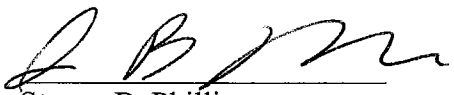
The Examiner has rejected claim 2 under 35 U.S.C. § 103(a) in view of Johnson and Lee as discussed above, further in view of U.S. Patent 6,098,053 to Slater. Since claim 2 depends from claim 1, Applicant's arguments above apply equally to claim 2. The Examiner looks to Slater only for teaching as to addressing the difference between credit and debit payments. Johnson and Lee are still lacking with respect to teachings corresponding to the recitations of the base claim.

The Examiner has rejected claims 3 and 4 under 35 U.S.C. § 103(a) as obvious in view of Johnson in combination with Slater. Regardless of the art applied, the Examiner must show that teaching corresponding to *all* of the claim recitations are present in or suggested by the prior art. The Examiner in this case looks to Johnson for teaching regarding an acquirer computer system, but looks for Slater for teaching connected with the generating of the transaction. Slater does not disclose or suggest determining and communicating payment instructions, and generating and settling a transaction without the transaction being initiated by a merchant. In fact the Examiner points specifically to portions of Slater that disclose only background on how standard credit and debit transactions work. Such transactions are normally initiated by a merchant. In this sense Slater teaches away from Applicant's amended claims.

Applicant has added claims 5 and 6 to further define the claimed invention. New claims 5 and 6 are commensurate with amended claims 1 and 2 and are supported by the specification in the same way. No new matter is added, and no additional burden is being placed on the Examiner.

Applicants believe they have responded to the Examiner's concerns, and that the application is in condition for allowance. Reconsideration of this application as amended is hereby requested.

Respectfully submitted,



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